

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Isaac R. Ulmer,

Case No. 3:10CV2839

Plaintiff

v.

ORDER

Dana Corporation, *et al.*,

Defendants

This is an employment discrimination in which the plaintiff has filed a second amended complaint. [Doc. 16]. He did so after being notified that he attached the wrong right to sue letter to his original complaint.

Pending is defendants' motion to dismiss. [Doc. 17]. Plaintiff's counsel has failed to file an opposition to the motion—just as she failed to file a timely opposition to defendants' original motion to dismiss the original complaint.

Though I granted leave *sua sponte* to file an out-of-time response to the original motion to dismiss, I decline to do so in this instance. So dismissal for want of prosecution is appropriate.

Dismissal on the merits also appears appropriate. Plaintiff's second amended complaint does not include the pertinent right to sue letter. In any event, plaintiff failed to file this suit within the ninety day deadline for doing so after receiving a right to sue letter.

There also appears to be no merit, for the reasons that defendants persuasively argue in their motion to dismiss, to plaintiff's breach of public policy, racial harassment, and intentional infliction of emotional distress claims.

It is, therefore,

ORDERED THAT the defendants' motion to dismiss the second amended complaint [Doc. 17] be, and the same hereby is granted, with prejudice.

So ordered.

/s/ James G. Carr  
Sr. United States District Judge